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this Memorandum Decision shall not be  
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**IN THE  
COURT OF APPEALS OF INDIANA**

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In re the Matter of the Involuntary Termination )  
of the Parent-Child Relationship of )  
C.B. and P.W., Minor Children, and )  
Their Mother, Miranda Wood, )

MIRANDA WOOD, )

Appellant-Respondent, )

vs. )

MARION COUNTY OFFICE OF )  
FAMILY AND CHILDREN, )

Appellee-Petitioner, )

and )

CHILD ADVOCATES, INC., )

Co-appellee (Guardian-ad-litem). )

No. 49A02-0601-JV-45

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APPEAL FROM THE MARION SUPERIOR COURT

The Honorable James Payne, Judge

The Honorable Deborah Shook, Commissioner

Cause No. 49D09-0504-JT-14392

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**September 26, 2006**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**DARDEN, Judge**

**STATEMENT OF THE CASE**

Miranda Wood appeals the termination of her parental rights as to her minor children, C.B. and P.W.

We affirm.

**ISSUE**

Whether there was clear and convincing evidence to support the termination of Wood's parental rights.

**FACTS**

Wood is mother to four children. C.B. was born on February 6, 1997, twins, Ay.W. and Ae.W., were born on June 28, 2003, and P.W. was born on September 12, 2004. Wood's parental rights as to Ay.W. and Ae.W. were involuntarily terminated in January of 2005.

In July of 2003, Wood left C.B. with his putative father, Charles Burgess, and did not have any contact with C.B. for nine months. In May of 2004, Burgess arranged to have C.B. visit with Wood since C.B. had been asking about Wood. After Wood failed to return C.B. to Burgess, Burgess filed a report with the Marion County Sheriff's Department. They, however, told him there was nothing they could do "because paternity was supposedly not established." (Tr. 55). Burgess was concerned because he believed Wood to be "strung out on drugs." (Tr. 58).

Shortly after C.B. came to live with Wood again, Wood was arrested on several charges. On May 25, 2004, the Marion Court Office of Family and Children (the “OFC”) filed a petition, alleging C.B. to be a child in need of services (“CHINS”) pursuant to Indiana Code section 31-34-1-1<sup>1</sup> due to Wood’s incarceration and Burgess’s failure to establish paternity. On May 26, 2004, Sarah Wilken, a family case manager with the OFC, informed Wood that an initial hearing to determine whether C.B. was a CHINS was set for June 10, 2004. Wood made no attempt to contact Wilken after their conversation on May 26, 2004. Wilken attempted to contact Wood again but was unable to do so. Despite Wood’s conversation with Wilken and the publication of a notice of the CHINS action, Wood did not appear at the initial hearing. The juvenile court reset the initial hearing for September 7, 2004.

Wood did not initially appear at the September 7, 2004, and the juvenile court found Wood to be in default. Wood eventually did appear that day, and the juvenile court rescinded its default order. The juvenile court held a hearing, during which Wood admitted the allegations of the CHINS petition. The juvenile court determined C.B. to be a CHINS and set a disposition hearing for October 5, 2004.

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<sup>1</sup> Indiana Code section 31-34-1-1 provides as follows:

A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child’s physical or mental condition is seriously impaired or seriously endangered as a result of the inability, refusal, or neglect of the child’s parent, guardian, or custodian to supply the child with necessary food, clothing, shelter, medical care, education, or supervision; and

(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

Wood gave birth to P.W. on September 12, 2004. On September 15, 2004, the OFC filed a petition, alleging P.W. to be a CHINS because P.W. tested positive for cocaine at birth and Wood admitted to using cocaine during her pregnancy. The juvenile court scheduled an initial hearing for October 5, 2004.

On October 5, 2004, Wood admitted the CHINS petition's allegations as to P.W., and as agreed to by the parties, the juvenile court proceeded to the disposition of P.W. The juvenile court ordered that P.W. be removed from Wood's care.

Also on October 5, 2004, the juvenile court held the disposition hearing in C.B.'s case and ordered that C.B. be removed from Wood's care. The juvenile court also entered a participation decree. Among other things, the juvenile court ordered Wood to do the following: (1) participate in a home-based counseling program; (2) complete a parenting assessment; (3) participate in, and successfully complete, a drug and alcohol assessment; (4) complete a substance abuse treatment program; (5) and participate in visitation "on a consistent, regular basis" as recommended by counselors or caseworkers. (Ex. Vol. p. 17). The juvenile court scheduled another hearing for December 9, 2004.

Wilken referred Wood to visitation services, substance-abuse treatment and parenting classes. On or about November 11, 2004, Wilken received a letter from Wood, wherein Wood sought "referrals for services." (Ex. Vol. p. 9). Prior to sending the November 11 letter, Wood did not attempt to set up visitation with either C.B. or P.W. Wilken "did refer [Wood] again over to visitation"; "for substance abuse treatment" and "parenting classes . . . ." (Tr. 31). Wood, however, failed to set up visitation with P.W. and C.B. and did not participate in any of the services to which she was referred. Wood

also failed to appear at the December 9, 2004 hearing. Wilken made no contact with Wood as “[h]er whereabouts were completely unknown at that time.” (Tr. 34).

On or about March 29, 2005, the OFC determined that it would be in the best interests of C.B. and P.W. to terminate Wood’s parental rights rather than attempt reunification. On April 15, 2005, the OFC filed a petition to terminate Wood’s parental rights as to C.B. and P.W. Wilken did not have any contact with Wood until Wood was arrested in April of 2005 on “a number of charges . . . .” (Tr. 35).

In mid-October of 2005, Wood contacted Wilken “to let [her] know that she was released from Marion County Jail on October 4<sup>th</sup>” and to seek referral to services. (Tr. 37). Wilken again referred Wood to services, following up with a letter to Wood on October 26, 2005. The letter informed Wood that she had been referred for a parenting assessment and someone would contact her to schedule an appointment. The letter also gave Wood a telephone number at which she could reach someone if no one contacted her. Finally, the letter informed Wood that the “assessment is a court ordered service and [she] must complete it.” (Ex. Vol. p. 37). Shortly after her release from jail, Wood was arrested for violating the terms of her release.

On October 28, 2005, the juvenile court held a hearing at which the OFC requested Wood’s visitation with C.B. and P.W. be suspended because of “[Wood]’s previous lack of compliance” and because the OFC “wanted to ensure that [Wood] would complete a parenting assessment before [the OFC] would disrupt the children and start those visitations again.” (Tr. 42). At the time, C.B. was living with an aunt and uncle in Ohio and had been since November of 2004. C.B. was “doing very well” and was “very

bonded to his caretakers.” (Tr. 43, 44). C.B. informed Wilken that he wanted to remain with his aunt and uncle. P.W. had been in the same foster home since she was removed from Wood’s care in September of 2004. P.W. was “wonderful” and “[v]ery bonded” with her foster parents. (Tr. 44).

On November 9, 2005, the trial court held a hearing on the OFC’s petition. On November 28, 2005, the trial court entered its order, terminating Wood’s parental rights.

### DECISION

Wood asserts that the trial court erred in terminating her parental rights. Although parental rights are of a constitutional dimension, the law allows for termination of these rights when parties are unable or unwilling to meet their responsibility. In re A.N.J., 690 N.E.2d 716, 720 (Ind. Ct. App. 1997). The purpose of termination of parental rights is not to punish parents but to protect children. In re L.S., 717 N.E.2d 204, 208 (Ind. Ct. App. 1999), cert. denied, 534 U.S. 1161 (2002). When a county office of family and children seeks to terminate parental rights, the office must plead and prove in relevant part that:

- (B) there is a reasonable probability that:
  - (i) the conditions that resulted in the child’s removal or the reasons for placement outside the home of the parents will not be remedied; or
  - (ii) the continuation of the parent-child relationship poses a threat to the well-being of the child;
- (C) termination is in the best interests of the child; and
- (D) there is a satisfactory plan for the care and treatment of the child.

Ind. Code § 31-35-2-4(b)(2). These allegations must be established by clear and convincing evidence. A.N.J., 690 N.E.2d at 720. In reviewing the termination of parental rights, we will neither reweigh the evidence nor judge the credibility of

witnesses. Id. We consider only the evidence most favorable to the judgment. Id. In deference to the trial court's unique position to assess the evidence, we will set aside a judgment terminating a parent-child relationship only if it is clearly erroneous. L.S., 717 N.E.2d at 208.

Wood asserts that "[t]here was no clear and convincing evidence of a threat to the well being of [Wood]'s children based on her failure to complete services." Wood's Br. 3. The trial court need only find either that the conditions resulting in a child's removal will not be remedied *or* that the continuation of the parent-child relationship poses a threat to the child. In re C.C., 788 N.E.2d 847, 854 (Ind. Ct. App. 2003), trans. denied. In determining whether the conditions will not be remedied, the trial court "first should determine what conditions led the State to place the child outside the home and with foster care, and second whether there is a reasonable probability that those conditions will be remedied." Id. "[T]he trial court must judge a parent's fitness to care for the child as of the time of the termination hearing and take into account any evidence of changed conditions." In re J.C., 646 N.E.2d 693, 694 (Ind. Ct. App. 1995), trans. denied. The trial court may consider the services offered to the parent "and the parents response to those services." C.C., 788 N.E.2d at 854. "[T]he failure to attend parenting classes reflects an unwillingness to change existing conditions." In re A.F., 762 N.E.2d 1244, 1252 (Ind. Ct. App. 2002), trans. denied.

In this case, the evidence demonstrates that several services were made available to Wood. Wood did contact Wilken sporadically, seeking re-referrals for services. Wood, however, never took advantage of these services. Wood also did not participate in

visitation with her children. Given Wood's pattern of conduct, we find clear and convincing evidence that the conditions, which resulted in C.B.'s and P.W.'s removal, will not be remedied.

Affirmed.

NAJAM, J., and FRIEDLANDER, J., concur.